

Objections to the Regulatory Process for Adoption of the Prohibition

Comment	Party	Page	Response
Delay Nov 5 th hearing. Give City time [generally unspecified] to complete five studies. Provide general public more opportunity for discussion.	City	106	<p>The City has had almost 20 years to implement an effective wastewater management strategy. Many stakeholders, over the past decade, have expressed frustration with the City's slow progress and failure to meet past commitments. Scientific elements of staff's reports have successfully passed an external review. Staff believes that the admin record supports a determination for a prohibition, and disagrees that preliminary results of the five studies contradict findings in the admin record.</p> <p>CEQA does not require that the Regional Board wait for additional studies. Staff believes there is substantial evidence from the myriad of studies that have already been published. Staff has reviewed many studies (see ESR) and spoken with many experts regarding the validity of the prior data. Staff believes the research to date is still valid. Further, staff has spoken with some of the researchers of the new studies and does not believe the results will be ready timely or that the results will shed new light directly on the issues at hand. Staff notes there is disagreement about the last point.</p>
	Las Virgenes MWD	197	
	Barscoccini (Malibu Knolls POA)	380	
	Harris	410	
	La Paz (Deleau)	412	
	La Paz (Cox)	480	
	Malibu Knolls POA	476	
	Metzler	478	
	Rosenthal	487	
	Stark	490	
	Toberman	600	
	Thai Cuisine	599	
Partner/take a collaborative approach with the community – instead of a prohibition.	City	133 & 134	See above response. Also see comments from Bay Restoration Commission (pg 195), BayKeeper (pg 214) and Heal the Bay (pg 234), and Surfing Association (pg 237) that suggest a more aggressive approach is needed.
	Chamber	231 & 233	
	Metzler	478	
	Rosenthal	487	
	Stark	490	
	Tobias	601	
Staff did not provide direct notice of the prohibition to individual homes or business owners.	County	190	Staff met legal requirements for noticing, including publishing the notice in a paper of general circulation (Malibu Times) on Sept 3 rd , Sept 10, and Sept 17 th . Staff took additional discretionary efforts to outreach to the community, including a technically-oriented workshop on Sept 1 st and a community meeting for affected residents on Oct 1 st .
More outreach, workshops, 'town hall' meetings are needed.	Chamber	230 - 233	Staff held a workshop on Sept 1 st , and a community meeting on the evening on Oct 1 st . Staff has met with the City of Malibu many times since June, including June 17, Sept 23 rd , Oct 6 th , and Oct 23 rd . Staff has also met with other interested parties, and provided much additional outreach through phone and e-mail.
	Benjamin	383	
	Advanced Onsite	587	
	Env Engineering	593 -596	
Where are meetings advertised?	Lady of Malibu Church	422	The Nov 5 th hearing was noticed in the Malibu Times. Information on the Sept 1 st workshop and Oct 1 st community meeting was sent through Lyris announcements, Web site postings (including pdf's of handouts), and e-mail notices to WDR dischargers. Also, the City of Malibu worked with staff to notify the community of the meetings.

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The Oct 1 st Board meeting [hearing] should be rescheduled.	La Paz (Deleau)	413	Staff did not schedule the Oct 1 st community meeting on the same day as the Board hearing. The prohibition item, originally scheduled for a hearing during the Oct 1 st Board meeting, was rescheduled to Nov 5 th . Because of this additional time, staff scheduled a community meeting on Oct 1 st . To ensure that Mr. Deleau understood this, staff left a voice mail for him on Sept 22 nd .
Staff was irresponsible in stating the Board will likely not take a strict approach toward enforcement.	La Paz (Deleau)	413	Disagree. Staff provided context, by explaining the agency's progressive approach to enforcement. The context and detail staff provided was in response to questions from several people in the audience at the Sept 1 st workshop, who asked about the Board's enforcement authority and – specifically penalties (which information was subsequently misquoted in the press).
The Sept 1 st workshop was too short and the venue was inappropriate.	La Paz (Deleau)	411	<p>Re timing of the Sept 1st workshop, staff acknowledges that five questions had to be cut off after 1 hour and 50 minutes. However, staff had committed to vacating the Pepperdine lecture hall so that a class could start at noon. Informally, staff engaged in discussions with interested attendees on the plaza outside of the lecture hall. Also, staff contacted the five speakers afterwards (including Deleau on September 2, 2009), asked for their comments, and invited them to the next community meeting. At the Oct 1st community meeting, staff did not close the meeting until all participants had opportunity to speak, and also stayed another hour for informal discussion.</p> <p>Re location, staff disagrees that the venue was inappropriate. Other facilities in the prohibition area were not available. Staff consulted with City officials about the venue.</p>
Peer review memos – access was not provided for timely review and comments.	City of Malibu	114	Health and Safety Code section 57004 requires an external scientific peer review of the scientific basis for any rule proposed by the Regional Board. The peer reviews are publicly available but are not the subject for comments.